

# ARNOLD & PORTER LLP

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May 14, 2008

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: U.S. Application No. 10/767,701  
Filed: January 29, 2004  
Title: Recombinant Polypeptides Associated with Plants  
Applicant(s): David K. KOVALIC *et al.*  
Atty. Docket: 16517.311

Sir:

The following documents are forwarded herewith for appropriate action by the U.S. Patent and Trademark Office (PTO):

1. an Amendment and Response to the Office Action mailed February 14, 2008;
2. an Information Statement;
3. an Information Disclosure Statement;
4. a Form PTO-1449 listing and supplying 201 documents; and
5. a return postcard.

Please stamp the attached postcard with the filing date of these documents and return it to our courier.

Applicants request that the following fees be charged to Deposit Account No. 50-2387 referencing docket number 16517.311:

\$ 180.00 information disclosure statement fee

05/15/2008 RMEBRAHT 00000051 502387 10767701  
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Page 2

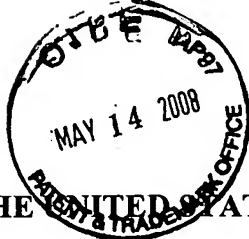
In the event that extensions of time beyond those petitioned for herewith are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned. Applicants do not believe any fees, other than the above (\$180.00), are due in conjunction with this filing. However, if any additional fees are required in the present application, including any fees for extensions of time, then the Commissioner is hereby authorized to charge such fees to Arnold & Porter LLP Deposit Account No. 50-2387 referencing matter number 16517.311. A duplicate copy of this letter is enclosed.

Respectfully submitted,



Lisa A. Adelson (Reg. No. 51,204)  
Holly Logue Prutz (Reg. No. 47,755)  
David R. Marsh (Reg. No. 41,408)

Enclosures



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

David K. KOVALIC *et al.*

Appln. No.: 10/767,701

Filed: January 29, 2004

For: Recombinant Polypeptides  
Associated with Plants

Art Unit: 1631

Examiner: Shubo Zhuo

Confirmation No.: 6459

Atty. Docket: 16517.311

**Information Statement**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants draw the Examiner's attention to NCBI BLASTP accession numbers included in the accompanying Information Disclosure Statement. The listed accession numbers were obtained by conducting a BLASTP analysis of SEQ ID NO: 44,293 through the National Center of Biotechnology Information (NCBI) website (<http://www.ncbi.nlm.nih.gov/blast/Blast.cgi> ). To conduct the BLASTP analysis and obtain the listed BLASTP accession numbers, Applicants entered the amino acid sequence of SEQ ID NO: 44,293 into the "Enter Query Sequence" box on the NCBI website and selected to search the database entitled "non-redundant protein sequences (nr)." The BLASTP algorithm of the website then performed an alignment of hypothetical and actual polypeptide sequences correlating to the polypeptide sequence of SEQ ID NO: 44,293. The resulting alignment allowed Applicants to compare the identity of the polypeptide sequence of SEQ ID NO: 44,293 with other polypeptide sequences represented by respective accession numbers.

Applicants respectfully remind the Examiner that the mere listing of a reference in an information disclosure statement is not taken as an admission that the reference is prior art against the claims. *See Riverwood Int'l Corp. v. R.A. Jones & Co.*, 324 F.3d 1346, 1354-55, 66 USPQ2d 1331, 1337-38 (Fed Cir. 2003). Likewise, Applicants believe the claimed subject matter to be patentable over the polypeptide sequences represented by the BLASTP accession numbers listed above and invite the Examiner to contact the undersigned with any questions. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,



Lisa A. Adelson (Reg. No. 51,204)

David R. Marsh (Reg. No. 41,408)

Date: May 14, 2008

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